

AMENDED IN SENATE JUNE 9, 2004

AMENDED IN SENATE FEBRUARY 18, 2004

AMENDED IN ASSEMBLY JANUARY 12, 2004

AMENDED IN ASSEMBLY AUGUST 28, 2003

AMENDED IN ASSEMBLY AUGUST 27, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1784

**Introduced by Assembly Members Wolk and Frommer
(Coauthors: Assembly Members Bates, Canciamilla, Chu, Correa,
Daucher, Dutra, Garcia, Shirley Horton, Nakano,
Negrete McLeod, Richman, Salinas, and Wiggins)**

July 15, 2003

An act to amend Section 86205 of, and to add Sections ~~86119 and 89518.5~~ *84211.5 and 86119* to, the Government Code, relating to the Political Reform Act of 1974, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1784, as amended, Wolk. Political Reform Act of 1974: conflict of interest: lobbying interests.

Existing law, the Political Reform Act of 1974, requires a lobbyist to register with the Secretary of State and prohibits a lobbyist from engaging in certain activities.

This bill would, effective January 1, 2005, prohibit a lobbyist or lobbying firm from ~~contacting, directly or through an agent,~~ *engaging*

in direct communication with an elected state officer, other than a Member of the Legislature, or the elected state officer's staff, for the purpose of influencing legislative or administrative action during the period of time, and for the 6 months following that period of time, that the lobbyist or the lobbying firm, or any other specified person or entity, has a contractual relationship, as defined, with the elected state officer's officer or his or her controlled campaign committee. The bill also would, effective January 1, 2005, prohibit a lobbyist or lobbying firm, during any period of time that the lobbyist or lobbying firm, or any other business entity, as specified, has a business relationship, as defined, with an elected state officer, other than a Member of the Legislature, from ~~contacting~~ *engaging in direct communication with* the officer or his or her staff for the purpose of influencing legislative or administrative action. The bill would, effective January 1, 2005, require a lobbyist or lobbying firm subject to these provisions because of either a contractual relationship or a business relationship, as described above, to notify the Secretary of State within 14 days *pursuant to regulations adopted by the Fair Political Practices Commission*.

Existing law prohibits the use of campaign funds to compensate a candidate or elected officer for the performance of political, legislative, or governmental activities, except as specified.

This bill would require a candidate for elective state office to report certain information, as specified, if the candidate or his or her controlled campaign committee enters into a contract or agreement that includes a payment that is contingent upon the election of the candidate to office.

Existing law makes a violation of the act subject to administrative, civil, and criminal penalties.

The bill would create a state-mandated local program by imposing these penalties on persons who violate the provisions of this bill.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes with a $\frac{2}{3}$ vote of each house and compliance with specified procedural requirements.

This bill, which would declare that it furthers the purposes of the Political Reform Act of 1974, would therefore require a $\frac{2}{3}$ vote.

This bill would incorporate additional changes in Sections 86119 and 86205 of the Government Code proposed by AB 1785 that would become operative only if AB 1785 and this bill are both chaptered and become effective on or before January 1, 2005, and this bill is chaptered last.

The bill would provide that it would not become operative unless AB 1785 is enacted and takes effect on or before January 1, 2005.

The bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. *Section 84211.5 is added to the Government*
2 *Code, to read:*
3 *84211.5. If a candidate for elective state office or his or her*
4 *controlled campaign committee enters into a contract or*
5 *agreement that includes a payment that is contingent upon the*
6 *election of the candidate to office, the payment shall be reported*
7 *as an accrued expense owed by the candidate on the next campaign*
8 *statement covering the reporting period during which the contract*
9 *or agreement was made and on each subsequent campaign*
10 *statement covering any period during which the payment remains*
11 *outstanding. The candidate shall report the payment separately*
12 *from any other amounts owed to the payee and shall clearly*
13 *identify the payment as an expense owed under a contingency*
14 *agreement.*
15 SEC. 2. Section 86119 is added to the Government Code, to
16 read:
17 86119. (a) A lobbyist or lobbying firm that becomes subject
18 to subdivision (g) of Section 86205 because of a contractual
19 relationship, as defined in paragraph (2) of that subdivision, with
20 ~~the controlled campaign committee of an elected state officer,~~
21 ~~other than a Member of the Legislature~~ *an elected state officer,*
22 *other than a Member of the Legislature, or his or her controlled*
23 *campaign committee, shall an elected state officer or his or her*

1 controlled campaign committee, notify the Secretary of State
2 within 14 days.

3 (b) A lobbyist or lobbying firm that becomes subject to
4 subdivision (h) of Section 86205 because of a business
5 relationship, as defined in paragraph (2) of that subdivision, with
6 an elected state officer, other than a Member of the Legislature,
7 shall notify the Secretary of State within 14 days.

8 (c) *The commission shall adopt regulations to provide for the*
9 *method, content, and disposition of notifications filed pursuant to*
10 *this section.*

11 ~~SEC. 1.5.~~

12 SEC. 2.5. Section 86119 is added to the Government Code, to
13 read:

14 86119. (a) A lobbyist or lobbying firm that becomes subject
15 to subdivision (g) of Section 86205 because of a contractual
16 relationship, as defined in paragraph (3) of that subdivision, with
17 ~~the controlled campaign committee of a Member of the~~
18 ~~Legislature or any other elected state officer~~ *an elected state officer*
19 *or his or her controlled campaign committee*, shall notify the
20 Secretary of State within 14 days.

21 (b) A lobbyist or lobbying firm that becomes subject to
22 subdivision (h) of Section 86205 because of a business
23 relationship, as defined in paragraph (3) of that subdivision, with
24 a Member of the Legislature or any other elected state officer, shall
25 notify the Secretary of State within 14 days.

26 (c) *The commission shall adopt regulations to provide for the*
27 *method, content, and disposition of notifications filed pursuant to*
28 *this section.*

29 ~~SEC. 2.~~

30 SEC. 3. Section 86205 of the Government Code is amended
31 to read:

32 86205. No lobbyist or lobbying firm shall:

33 (a) Do anything with the purpose of placing any elected state
34 officer, legislative official, agency official, or state candidate
35 under personal obligation to the lobbyist, the lobbying firm, or the
36 lobbyist's or the firm's employer.

37 (b) Deceive or attempt to deceive any elected state officer,
38 legislative official, agency official, or state candidate with regard
39 to any material fact pertinent to any pending or proposed
40 legislative or administrative action.

1 (c) Cause or influence the introduction of any bill or
2 amendment thereto for the purpose of thereafter being employed
3 to secure its passage or defeat.

4 (d) Attempt to create a fictitious appearance of public favor or
5 disfavor of any proposed legislative or administrative action or to
6 cause any communication to be sent to any elected state officer,
7 legislative official, agency official, or state candidate in the name
8 of any fictitious person or in the name of any real person, except
9 with the consent of that real person.

10 (e) Represent falsely, either directly or indirectly, that the
11 lobbyist or the lobbying firm can control the official action of any
12 elected state officer, legislative official, or agency official.

13 (f) Accept or agree to accept any payment in any way
14 contingent upon the defeat, enactment, or outcome of any
15 proposed legislative or administrative action.

16 (g) (1) ~~Contact, directly or through an agent,~~ *Engage in direct*
17 *communication with* an elected state officer, other than a Member
18 of the Legislature, or the elected state officer's staff, for the
19 purpose of influencing legislative or administrative action during
20 the period of time, and for the six months following that period of
21 time, that any of the following persons has a contractual
22 relationship with the elected state officer's officer or his or her
23 controlled campaign committee:

24 (A) The lobbyist, or any business entity in which the lobbyist
25 has a 3-percent or greater ownership interest or holds a position of
26 management.

27 (B) The lobbying firm, any person who has a whole or partial
28 ownership interest in the lobbying firm, or any person who is an
29 officer or employee of the lobbying firm.

30 (2) For the purposes of paragraph (1), "contractual
31 relationship" means any contract or agreement between a person
32 described in subparagraph (A) or (B) of paragraph (1) and the
33 ~~controlled campaign committee of an elected state officer, other~~
34 ~~than a Member of the Legislature~~ *elected state officer or his or her*
35 *controlled campaign committee*, pursuant to which the person is
36 entitled to compensation of one thousand dollars (\$1,000) or more
37 per quarter, or four thousand dollars (\$4,000) or more per *calendar*
38 *year*.

39 (h) (1) ~~Contact, directly or through an agent,~~ *Engage in direct*
40 *communication with* an elected state officer, other than a Member

1 of the Legislature, or his or her staff, for the purpose of influencing
2 legislative or administrative action, during any period of time that
3 the lobbyist or lobbying firm, or any other business entity in which
4 the lobbyist has a 3-percent or greater ownership interest or is an
5 officer or employee, has a business relationship with the elected
6 state officer.

7 (2) For the purposes of paragraph (1), a “business
8 relationship” exists when an elected state officer, other than a
9 Member of the Legislature, has an economic interest of one
10 thousand dollars (\$1,000) or more, that is reportable pursuant to
11 Chapter 7 (commencing with Section 87100), in the lobbyist,
12 lobbying firm, or any business entity in which the lobbyist has a
13 3-percent or greater ownership interest or is an officer or
14 employee. The business relationship shall be deemed terminated
15 upon disposal of the economic interest by the elected state officer,
16 lobbyist, or lobbying firm, or in the case of income, 12 months
17 after the income is received by the elected state officer.

18 ~~SEC. 2.5.~~

19 *SEC. 3.5.* Section 86205 of the Government Code is amended
20 to read:

21 86205. No lobbyist or lobbying firm shall:

22 (a) Do anything with the purpose of placing any elected state
23 officer, legislative official, agency official, or state candidate
24 under personal obligation to the lobbyist, the lobbying firm, or the
25 lobbyist’s or the firm’s employer.

26 (b) Deceive or attempt to deceive any elected state officer,
27 legislative official, agency official, or state candidate with regard
28 to any material fact pertinent to any pending or proposed
29 legislative or administrative action.

30 (c) Cause or influence the introduction of any bill or
31 amendment thereto for the purpose of thereafter being employed
32 to secure its passage or defeat.

33 (d) Attempt to create a fictitious appearance of public favor or
34 disfavor of any proposed legislative or administrative action or to
35 cause any communication to be sent to any elected state officer,
36 legislative official, agency official, or state candidate in the name
37 of any fictitious person or in the name of any real person, except
38 with the consent of that real person.

(e) Represent falsely, either directly or indirectly, that the lobbyist or the lobbying firm can control the official action of any elected state officer, legislative official, or agency official.

(f) Accept or agree to accept any payment in any way contingent upon the defeat, enactment, or outcome of any proposed legislative or administrative action.

(g) (1) ~~Contact, directly or through an agent, a~~ *Engage in direct communication with* Member of the Legislature, his or her staff, or the staff of any committee the Member chairs, for the purpose of influencing legislative action during the period of time, and for the six months following that period of time, that any of the following persons has a contractual relationship with the ~~Member's Member or his or her~~ controlled campaign committee:

(A) The lobbyist, or any business entity in which the lobbyist has a 3-percent or greater ownership interest or holds a position of management.

(B) The lobbying firm, any person who has a whole or partial ownership interest in the lobbying firm, or any person who is an officer or employee of the lobbying firm.

(2) ~~Contact, directly or through an agent,~~ *Engage in direct communication with* an elected state officer, other than a Member of the Legislature, or the elected state officer's staff, for the purpose of influencing legislative or administrative action during the period of time, and for the six months following that period of time, that any of the following persons has a contractual relationship with the ~~elected state officer's~~ *officer or his or her* controlled campaign committee:

(A) The lobbyist, or any business entity in which the lobbyist has a 3-percent or greater ownership interest or holds a position of management.

(B) The lobbying firm, any person who has a whole or partial ownership interest in the lobbying firm, or any person who is an officer or employee of the lobbying firm.

(3) For the purposes of paragraphs (1) and (2), "contractual relationship" means any contract or agreement between a person described in subparagraph (A) or (B) of paragraph (1) or subparagraph (A) or (B) of paragraph (2) and the ~~controlled campaign committee of a Member of the Legislature or other elected state officer~~ *elected state officer or his or her controlled campaign committee* pursuant to which the person is entitled to

1 compensation of one thousand dollars (\$1,000) or more per
2 quarter, or four thousand dollars (\$4,000) or more per *calendar*
3 year.

4 (h) (1) ~~Contact, directly or through an agent, Engage in direct~~
5 ~~communication with~~ a Member of the Legislature, his or her staff,
6 or the staff of any committee the Member chairs, for the purpose
7 of influencing legislative action, during any period of time that the
8 lobbyist or lobbying firm, or any other business entity in which the
9 lobbyist has a 3-percent or greater ownership interest or is an
10 officer or employee, has a business relationship with the Member.

11 (2) ~~Contact, directly or through an agent, Engage in direct~~
12 ~~communication with~~ an elected state officer, other than a Member
13 of the Legislature, or his or her staff, for the purpose of influencing
14 legislative or administrative action, during any period of time that
15 the lobbyist or lobbying firm, or any other business entity in which
16 the lobbyist has a 3-percent or greater ownership interest or is an
17 officer or employee, has a business relationship with the elected
18 state officer.

19 (3) For the purposes of paragraphs (1) and (2), a “business
20 relationship” exists when a Member of the Legislature or other
21 elected state officer has an economic interest of one thousand
22 dollars (\$1,000) or more, that is reportable pursuant to Chapter 7
23 (commencing with Section 87100), in the lobbyist, lobbying firm,
24 or any business entity in which the lobbyist has a 3-percent or
25 greater ownership interest or is an officer or employee. The
26 business relationship shall be deemed terminated upon disposal of
27 the economic interest by the Member or other elected state officer,
28 lobbyist, or lobbying firm, or in the case of income, 12 months
29 after the income is received by the Member or other elected state
30 officer.

31 ~~SEC. 3.—Section 89518.5 is added to the Government Code, to~~
32 ~~read:~~

33 ~~89518.5.—If a candidate for elective state office or his or her~~
34 ~~controlled campaign committee enters into a contract or~~
35 ~~agreement that includes a payment that is contingent upon the~~
36 ~~election of the candidate to office, that contract or agreement,~~
37 ~~including the date thereof, a description of the terms of the contract~~
38 ~~or agreement, and identification of all persons with whom the~~
39 ~~contract or agreement was made, shall be reported by the candidate~~
40 ~~on the next campaign statement covering the reporting period~~

1 ~~during which the contract or agreement was made and on each~~
2 ~~subsequent campaign statement covering any period during which~~
3 ~~the contract or agreement remained in effect.~~

4 SEC. 4. Section ~~4.5~~ 2.5 of this bill incorporates amendments
5 to Section 86119 of the Government Code proposed by both this
6 bill and AB 1785. It shall only become operative if (1) both bills
7 are enacted and become effective on or before January 1, 2005, (2)
8 each bill amends Section 86119 of the Government Code, and (3)
9 this bill is enacted after AB 1785, in which case Section ~~4~~ 2 of this
10 bill shall not become operative.

11 SEC. 5. Section ~~2.5~~ 3.5 of this bill incorporates amendments
12 to Section 86205 of the Government Code proposed by both this
13 bill and AB 1785. It shall only become operative if (1) both bills
14 are enacted and become effective on or before January 1, 2005, (2)
15 each bill amends Section 86205 of the Government Code, and (3)
16 this bill is enacted after AB 1785, in which case Section ~~2~~ 3 of this
17 bill shall not become operative.

18 SEC. 6. No reimbursement is required by this act pursuant to
19 Section 6 of Article XIII B of the California Constitution because
20 the only costs that may be incurred by a local agency or school
21 district will be incurred because this act creates a new crime or
22 infraction, eliminates a crime or infraction, or changes the penalty
23 for a crime or infraction, within the meaning of Section 17556 of
24 the Government Code, or changes the definition of a crime within
25 the meaning of Section 6 of Article XIII B of the California
26 Constitution.

27 SEC. 7. The Legislature finds and declares that the provisions
28 of this act further the purposes of the Political Reform Act of 1974
29 within the meaning of subdivision (a) of Section 81012 of the
30 Government Code.

31 SEC. 8. Except as otherwise provided in Sections 4, 5, and 9
32 of this act, Sections ~~1, 1.5, 2, and 2.5~~ 2, 2.5, 3, *and* 3.5 of this act
33 shall become operative on January 1, 2005.

34 SEC. 9. This act shall not become operative unless AB 1785
35 is enacted and takes effect on or before January 1, 2005.

36 SEC. 10. This act is an urgency statute necessary for the
37 immediate preservation of the public peace, health, or safety
38 within the meaning of Article IV of the Constitution and shall go
39 into immediate effect. The facts constituting the necessity are:

1 In order to prevent undue influence by lobbyists, lobbying
2 firms, and lobbyist employers on Members of the Legislature, it
3 is necessary that this bill go into immediate effect.

O

